

DATED 24 August 2015

SBP – Sustainable Biomass Partnership (1)

and

NEPCon OÜ (2)

Agreement relating to the SBP Certification Program



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THIS AGREEMENT is dated

2015

PARTIES

- (1) **THE SUSTAINABLE BIOMASS PARTNERSHIP LIMITED** incorporated and registered in England and Wales with company number 08793480 whose registered office is at 3rd Floor, 41 Moorgate, London, EC2R 6PP (**SBP**).
- (2) **NEPCon OÜ** incorporated and registered in Estonia with company number 10835645 whose registered office is at Filosoofi 31, 50108 Tartu, Estonia (**Applicant**).

BACKGROUND

- (A) SBP has established a framework for the promotion of sustainable biomass production and use, and has developed standards for Certification in relation to such matters.
- (B) The Applicant has applied to SBP for approval to perform Certification Assessments based on SBP standards and associated guidance material.
- (C) SBP intends that certification bodies offering SBP certification services will be accredited by accreditation bodies and SBP may require CBs to be accredited in the future.
- (D) The Parties intend this Agreement to remain in force so long as the Certification Body is approved by SBP.

IT IS HEREBY AGREED

1 INTERPRETATION

- 1.1 Clause, Schedule and paragraph headings shall not affect the interpretation of this Agreement.
- 1.2 Headings shall not be taken into consideration in the interpretation of this Agreement.

- 1.3 A reference to this Agreement includes any deed or document which is supplemental to, varies or is ancillary to this Agreement from time to time and includes any and all annexes, appendices, schedules, SBP Framework Requirements, Certification Requirements and any and all other addenda as may be necessary from time to time in accordance with the provisions of this Agreement in its most recent version.
- 1.4 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.5 The Schedules form part of this Agreement and shall have effect as if set out in full in the body of this Agreement. Any reference to this Agreement includes the Schedules.
- 1.6 A reference to a **company** shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- 1.7 References to clauses and Schedules are to the clauses and Schedules of this Agreement.
- 1.8 A reference to a **holding company** or a **subsidiary** means a holding company or a subsidiary (as the case may be) as defined in section 1159 of the Companies Act 2006 and a company shall be treated, for the purposes only of the membership requirement contained in sections 1159(1)(b) and (c), as a member of another company even if its shares in that other company are registered in the name of (a) another person (or its nominee) by way of security or in connection with the taking of security, or (b) its nominee. In the case of a limited liability partnership which is a subsidiary of a company or another limited liability partnership, section 1159 of the Companies Act 2006 shall be amended so that: (a) references in sections 1159(1)(a) and (c) to voting rights are to the members' rights to vote on all or substantially all matters which are decided by a vote of the members of the limited liability partnership; and (b) the reference in section 1159(1)(b) to the right to appoint or remove a majority of its board of directors is to the right to appoint or remove members holding a majority of the voting rights.

- 1.9 Unless the context otherwise requires, words in the singular include the plural and in the plural include the singular.
- 1.10 This Agreement shall be binding on, and enure to the benefit of, the parties to this Agreement and their respective personal representatives, successors and permitted assigns, and references to any Party shall include that Party's personal representatives, successors and permitted assignees.
- 1.11 In the event of any conflict or inconsistency between the main body of this Agreement and the Schedules, the main body of this Agreement shall prevail.
- 1.12 In the event of any conflict or inconsistency between the definitions and the remainder of the terms in the main body of this Agreement, the Agreement shall be intended to give effect to the definitions, save as expressly provided or where there is an inconsistency or conflict.
- 1.13 SBP and the Applicant each are 'Party' and collectively 'Parties'.
- 1.14 The paragraph headings are for convenience only and shall be of no effect for the purpose of interpreting the terms and conditions of this Agreement.
- 1.15 Except where the context requires otherwise the singular includes the plural and vice versa. A reference to one gender includes all genders and words denoting persons include associations, organisations, firms and corporations and vice versa.
- 1.16 A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time.
- 1.17 A reference to a statute or statutory provision shall include all subordinate legislation made from time to time under that statute or statutory provision.
- 1.18 A reference to **writing** or **written** includes e-mail.
- 1.19 Any obligation on a Party not to do something includes an obligation not to allow that thing to be done.

- 1.20 Any words following the terms **including, include, in particular, for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

2 DEFINITIONS

- 2.1 In this Agreement the following words and expressions shall have the meanings hereby attributed to them:

- 2.1.1 **Approval and Approved** means written Approval of the Applicant in the discretion of SBP where the Applicant meets the SBP Framework Requirements and in accordance with Clause 5.2 subject to the Scope of Approval;
- 2.1.2 **Approval Assessment** means the initial and ongoing assessments undertaken by SBP to evaluate the competence and capability of, and/or verify whether the Applicant meets the SBP Framework Requirement relevant to the Scope of Approval sought or obtained by the Applicant;
- 2.1.3 **Approval Certificate** means the certificate awarded by SBP to an Applicant;
- 2.1.4 **Approval Decision** means the decision taken by SBP in accordance with Clause 5.2.3 following an initial or ongoing assessment as to whether or not to grant, extend, reduce, suspend or terminate any Approval or take any other action SBP considers necessary in the circumstances;
- 2.1.5 **Approval Recommendation** means a recommendation made by the SBP Technical Committee to grant, extend, reduce, suspend or terminate any Approval or take any other action SBP considers necessary in the circumstances;
- 2.1.6 **Assessment Report** means a report prepared by SBP;
- 2.1.7 **Business Day** a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business;

- 2.1.8 **CB Final Assessment Report** means a report produced by a CB when assessing a Client for Certification;
- 2.1.9 **Certification Assessment** means the initial and ongoing assessments undertaken by the CB to evaluate the competence and capability of the Client and verify the Client's compliance with the Certification Requirements;
- 2.1.10 **Certification Body** or '**CB**' means the Applicant which, at the relevant time, is Approved to perform and implement the Certification Requirements and carry out Certification Assessments;
- 2.1.11 **Certification** means formal recognition granted by the CB that a Client has demonstrated compliance with the relevant parts of the Certification Requirements;
- 2.1.12 **Certification Requirements** means
- (a) in respect of a Client, Standards 1, 2, 4, 5 and 6 of the SBP Framework Requirements and the Trade Mark Licence Agreement;
 - (b) any additional requirements imposed by a CB; and
 - (c) any amended or additional requirements as may be imposed by SBP
- 2.1.13 **Client** means a legal entity applying for or who has obtained Certification;
- 2.1.14 **Confidential Information** means all confidential information (however recorded or preserved) disclosed by a Party or its Representatives to the other party and that party's Representatives whether before or after the date of this Agreement including, but not limited to;
- (a) the terms of this Agreement;

- (b) any information that would be regarded as confidential by a reasonable business person relating to:
 - (i) the business, affairs, customers, clients, suppliers, or plans, intentions, or market opportunities of the disclosing party or of any holding company or subsidiary to which the disclosing party belongs;
 - (ii) the operations, processes, product information, know-how, designs, trade secrets or software of the disclosing party or of any member of the group of companies to which the disclosing party belongs; and
 - (iii) any information developed by the parties in the course of carrying out this agreement.

2.1.15 **Data Protection Legislation** means all legislation and regulations relating to the protection of personal data and/or privacy including the Data Protection Act 1998 (**DPA**) and the Privacy and Electronic Communications (EC Directive) Regulations 2003 and guidance (whether statutory or non-statutory) or codes of practice issued by any competent regulator relating to the processing of personal data and/or privacy;

2.1.16 **Data Protection Notice** means any notice issued under the Data Protection Legislation, (including a data subject access request under section 7 of the DPA) or a request by the Information Commissioner;

2.1.17 **Dispute** shall include:

- (a) **Appeal** means a request for reconsideration of any adverse decision made by SBP with regard to the SBP Framework Requirements; and
- (b) **Complaint** means a formal expression of dissatisfaction by any person or organisation, to SBP, relating to the activities of the SBP Framework Requirements.

2.1.18 **Effective Date** means the date of this Agreement;

- 2.1.19 **Good Industry Practice** means the exercise of that degree of skill and care, diligence, prudence, impartiality and foresight which would reasonably be expected from a skilled and experienced person engaged in the same type of undertaking under the same or similar circumstances;
- 2.1.20 **Group** means in relation to a company, that company, any subsidiary or holding company from time to time of that company, and any subsidiary from time to time of a holding company of that company;
- 2.1.21 **Intellectual Property Rights** means any and all rights to copyright, typography, databases, designs, patents, trade or service marks, know-how and all other intellectual property, any and all proprietary or other rights (whether or not any of the same are registered or registerable, and including any applications or rights to apply for registration of any of the same) which may exist anywhere and in any form worldwide;
- 2.1.22 **Legal Requirements** means any present or future law, regulation, directive, instruction, direction or rule of any competent authority or any guidance with which the Applicant is bound including any amendment, extension or replacement thereof which is from time to time in force;
- 2.1.23 **Licensed Material** means the SBP trade marks licensed identified in Schedule 1;
- 2.1.24 **Non-Conformity** means the absence of, or the failure to implement and maintain one or more requirements of the SBP Framework Requirements or a situation which would in the reasonable opinion of SBP on the basis of objective evidence raise doubt as to the credibility of the certificates issued by a CB, in each case, as determined by SBP which shall grade the Non-Conformity and specify the requirements and timescales for corrective action in accordance with the SBP Framework Requirements;
- 2.1.25 **SBP Fee Schedule** means the fees payable as set out in Schedule 2 of this Agreement;

- 2.1.26 **Representatives** means in relation to a Party its employees, officers, directors, subsidiaries, representatives, Subcontractors, shareholders and advisers;
- 2.1.27 **SBP Framework Requirements** means the requirements as published from time to time on the SBP website (www.sustainablebiomasspartnership.org) with which any applicants, certified bodies or Clients (as applicable) must comply with which may contain the following:
- (a) **SBP Approval Requirements** means normative and non-normative documents (e.g. application procedures, policies, guidance documents, advice notes and any other documentation in relation to the SBP Framework) as developed by SBP required for operating the SBP Framework Requirements as may be amended by SBP time to time;
 - (b) **SBP Institutional Documents** means governance documents (including statutes, by-laws, dispute resolution processes any other documentation) in relation to the SBP Certification System Scheme, required for operating the SBP Framework Requirements as amended by SBP from time to time;
 - (c) **ISO Requirements** means documents developed by the International Organisation for Standardisation (e.g. ISO standards, guidelines and any other documentation) as may be amended from time to time; and
 - (d) **Accreditation Requirements means** the SBP may require the CB to also be accredited by an accreditation body as SBP may specify in accordance with the relevant accreditation body requirements.
- 2.1.28 **SBP Technical Committee** means an independent committee established by SBP to make Technical Recommendations;

- 2.1.29 **Scope of Approval** means the type and extent of certification services that an Approved CB may offer under this Agreement in a defined geographic area (on a non-exclusive basis);
- 2.1.30 **Subcontractor** means an individual, company or organisation contracted by either Party to fulfil a specific role or task;
- 2.1.31 **Technical Recommendation** means a recommendation made by the SBP Technical Committee;
- 2.1.32 **Term** means the period as set out in clause 13 of this Agreement;
- 2.1.33 **Termination** means the Termination by SBP or following mutual agreement of the CB's Approval as set out in clause 13;
- 2.1.34 **Third Parties** refers to persons other than the Parties hereto; and
- 2.1.35 **Trade Mark Licence Agreement** means an agreement in the same material form as the document attached at Schedule 3 to be entered into between SBP and the Client.

3 CB APPROVAL PROCESS

- 3.1 The Applicant acknowledges that SBP in its discretion shall grant any Approval or reject any application and shall determine the Scope of Approval whether upon application or an Approval Assessment or otherwise in accordance with this Agreement and to the applicable SBP Framework Requirements.
- 3.2 SBP reserves the right to require the Applicant to be accredited by a relevant accreditation body in accordance with the SBP Framework Requirements.
- 3.3 Approval does not grant of itself the CB an exclusive business area or protected territory and that the Scope of Approval shall be determined by SBP in accordance with an Approval Assessment.
- 3.4 The Applicant acknowledges that SBP shall in its discretion undertake evaluation and assessment of all matters required to demonstrate compliance with this Agreement and the applicable SBP Framework Requirements.

- 3.5 Any Application which is granted or rejected and any other decision by SBP under the terms of this Agreement (whether in respect of termination, suspension, reduction or extension in the Scope of Approval) may be the subject of a Dispute provided that SBP receives written notice, including reasonable details, of such Dispute within one (1) month of issuing written notice of its decision to the Applicant in respect thereof.
- 3.6 The Scope of Approval shall be limited to the terms of the Approval Certificate which shall be published on the SBP website. The Parties agree that the CB has the right to Appeal any decision or condition imposed on the Scope of Approval according to clause 14 of this Agreement.

4 PRINCIPAL OBLIGATIONS OF THE CB

- 4.1 Throughout the Term the CB shall implement all applicable SBP Framework Requirements and undertake any Certification Assessments (whether or not leading to Certification) in accordance with the terms of this Agreement and in accordance with Good Industry Practice. In particular and without limitation to the generality of the foregoing the CB shall:
- 4.1.1 obtain and maintain all of the applicable SBP Framework Requirements and Certification Requirements from the SBP as required to provide Certification Assessments;
 - 4.1.2 allow SBP to conduct Approval Assessments in response to CB's initial application, and thereafter as deemed necessary by SBP including annual assessments, investigation of Complaints and investigation of stakeholder comments;
 - 4.1.3 not to withhold or prevent SBP or SBP's agents right of access to Confidential Information or documents produced by the CB as required by the applicable SBP Framework Requirements or to withhold or prevent SBP or SBP's agents rights of access to production sites;

- 4.1.4 to ensure the right of the CB and SBP and their respective authorised agents at any reasonable time to have access to the Client's premises (or to arrange for such authorised representative to have access to other relevant premises owned or controlled by the Client or its group companies) for the purpose of inspecting and taking copies of any information, documentation, goods, books and records deemed necessary by CB or SBP;
- 4.1.5 act in accordance with all reasonable instructions from SBP given to it at any time;
- 4.1.6 comply with the highest professional ethical standards at all times and ensure that its conduct of the Certification Assessments will not result in SBP being in breach of any Legal Requirements;
- 4.1.7 comply with all Legal Requirements and obtain all consents and authorisations necessary to fully effect the terms and provisions of this Agreement and maintain all necessary licences and approvals for the conduct of its business;
- 4.1.8 inform SBP without delay of any bankruptcy proceedings or appointment of a receiver of its assets or its liquidation or it being subject to any similar proceedings;
- 4.1.9 pay SBP such fees and expenses as are published by it on the SBP website from time to time and otherwise in accordance with Schedule 2 (Fees and Expenses);
- 4.1.10 not directly or indirectly, intentionally or through negligence discredit or damage or permit discrediting or damaging the reputation of SBP and/or its associated organisations; and
- 4.1.11 inform SBP without delay about changes in any aspect of its status or operation relating to: legal, commercial, ownership or organisational status; organisation, top management and key personnel; main policies; resources and premises; other matters that may affect its ability to fulfil requirements for Approval.

- 4.2 The CB shall make all reasonable provisions to ensure the health and safety of SBP directors/employees or its agents whilst SBP is conducting assessments.
- 4.3 As a condition precedent to Approval, the CB will enter into the Trade Mark Licence Agreement with SBP as set out in Schedule 3.
- 4.4 As a condition precedent to Certification, the CB shall procure that a Client enters into the Trade Mark Licence Agreement with SBP as set out in Schedule 3.
- 4.5 The CB shall co-operate fully and in a timely manner with any reasonable request from time to time of any auditor (whether internal or external) and shall use all reasonable endeavours to procure access for inspection to any third party in connection with any audit.
- 4.6 The CB shall co-operate fully and in a timely manner with any reasonable request from time to time of any auditor (whether internal or external) to provide documents, or to procure the provision of documents relating to the SBP Framework Requirements or Certification Requirements other than where such documents contain Confidential Information (except to the extent that the CB can be required to provide such information due to Legal Requirements) and to provide, or to procure the provision of, any oral or written explanation to the same.
- 4.7 For the avoidance of doubt neither Party shall be in breach of Clause 8 (Non-Disclosure and Confidential Information) by reason of any disclosure properly and reasonably made pursuant to this Clause 4.

5 PRINCIPAL OBLIGATIONS OF THE SBP

- 5.1 SBP guarantees only to deliver services as described and in accordance with the express terms in this Agreement.
- 5.2 SBP shall in particular:
 - 5.2.1 conduct Approval Assessments;
 - 5.2.2 be impartial in developing policies and procedures that are non-discriminatory and administered in a non-discriminatory way;

- 5.2.3 seek Approval Recommendations from the SBP Technical Committee for consideration by the SBP Executive Director. The Applicant shall only be Approved once the SBP Executive Director has made an Approval Decision and the Applicant has been advised of the Approval Decision in writing. SBP may adopt a similar process where it is considering whether or not to extend, reduce, suspend or terminate Approval;
- 5.2.4 manage the SBP Framework Requirements to assess applicants for Approval and to monitor certified bodies compliance with the SBP Framework Requirements;
- 5.2.5 be impartial in implementing the requirements of this Agreement and in a way that is non-discriminatory and administered in a non-discriminatory way; and
- 5.2.6 (notwithstanding clause 5.2.3) at any time be able to withdraw the Approval of the CB irrespective of any findings or conclusions of an accreditation body.

6 GENERAL OBLIGATIONS OF THE PARTIES

- 6.1 The Parties shall collaborate in good faith and in accordance with the terms and conditions of this Agreement and the SBP Framework Requirements. In particular and without limitation to the generality of the foregoing, the Parties shall:
 - 6.1.1 promptly inform each other of all complaints about the other Party and its subsidiaries as they relate to or affect this Agreement, provided that the Party may do so without violating any pre-existing confidentiality and non-disclosure obligations owed to third parties;
 - 6.1.2 use their reasonable commercial endeavours to maintain at all times their reputation as a responsible reputable and financially sound organisation suitable to observe and perform their rights and obligations granted under this Agreement; and

- 6.1.3 respond to requests from the other Party in a timely and appropriate manner.

7 ASSIGNMENT AND SUBCONTRACTING

- 7.1 Each Party is an independent contractor and not an agent or consultant of the other Party. Furthermore, nothing contained in this Agreement is intended nor is to be construed as creating any kind of partnership. Each Party shall make it clear in all dealings with third parties that it is not an agent or consultant of the other Party and has no authority to represent, bind or commit the other Party in any way. Each Party is constituted and acts in conformity with the current laws and regulations of its respective country.
- 7.2 The obligations of the CB under this Agreement shall at all times remain the responsibility of the CB regardless of whether or not the work is carried out by the CB's staff, contract employees or Subcontractors. The CB shall not assign any of its rights or obligations arising out of this Agreement to Third Parties.
- 7.3 SBP reserves the right to assign, Subcontract or otherwise transfer Approval and other assessments to any third party.

8 NON-DISCLOSURE AND CONFIDENTIAL INFORMATION

- 8.1 The Parties acknowledge that all Confidential Information constitutes a valuable, proprietary and confidential asset. The Parties agree to hold all Confidential Information in strict trust and confidence and will not, either during the Term of the Agreement or thereafter, directly or indirectly, use or disclose any such information except for the other Parties' benefit or with express written consent.
- 8.2 The Parties agree that their respective Representatives shall be subject to the terms and conditions of this clause 8. Each Party will be responsible for the compliance of their respective Representatives with this clause 8.

8.3 The Parties ensure that only those Representatives who are directly concerned with carrying out this Agreement shall have access to the Confidential Information and that such access shall be on a strictly applied “need to know” basis; all such persons shall be informed of the confidential nature of the information.

8.4 All records, documents, material and information relating to the CB and its Clients, obtained by a Party or its Representatives shall be deemed and considered Confidential Information, except when such information is required to be obtained by SBP and or be published for transparency reasons in accordance with the SBP Framework Requirements.

8.5 Notwithstanding any other provisions of this Clause 8, SBP shall be entitled:

8.5.1 to disclose the name and status of any Applicant or CB in relation to the SBP Framework Requirements; and

8.5.2 in relation to any Client, the name and status of any Client in relation to the SBP Framework Requirements;

and in respect of Clause 8.5.2, the CB agrees that it shall procure the agreement of the Client to such disclosure.

8.6 The Parties and their respective Representatives, except as authorised in writing by the Managing Director(s) (or equivalent senior officer) of the other Party, shall not at any time make any commercial use of, or disclose to any third party, any such Confidential Information as described in this clause 8.

8.7 Exemptions

The restrictions on use and disclosure set out in this Agreement will not apply to any Confidential Information which:

8.7.1 at the date of this Agreement is already known to a Party or its Representatives (as evidenced by written records) and was not acquired directly or indirectly from the other third party(ies), its subsidiaries or its associated organisations or from Clients and was not subject to any prior duty of confidentiality or secrecy;

8.7.2 on the date of its disclosure to the other Party or its Representatives is public knowledge or which subsequently becomes public knowledge other than as a result of a breach of confidentiality and or this Agreement; and

8.7.3 at any time after the date of this Agreement is disclosed to a Party or its Representatives by any third party who did not acquire such information directly or indirectly from the other Party, or its Representatives and who is not under any duty of confidentiality or secrecy in relation thereto;

8.8 Duration

8.8.1 The restrictions in this clause 8 shall survive the Termination of the entire Agreement between the Parties and shall be in addition to any restrictions imposed on the Parties by the SBP Framework Requirements.

8 INTELLECTUAL PROPERTY RIGHTS

8.1 SBP owns all Intellectual Property Rights with respect to the SBP Framework Requirements, Certification Requirements and the Licensed Materials.

8.2 Save as for clause 4.3, nothing in this Agreement shall enable the Applicant to use the name, trade mark or other intellectual property of SBP without the prior written consent of SBP.

9 WARRANTIES

The CB represents and warrants to SBP that:

9.1 it has the legal power, authority and right to enter into this Agreement and to perform its obligations hereunder; and

9.2 it is not a Party to any agreement, arrangement or understanding with any third party, which in any significant way prevents it from fulfilling any of its material obligations under the terms of this Agreement.

10 INSURANCE, LIABILITY AND INDEMNITY

- 10.1 The CB shall effect and maintain in force a policy of insurance against its potential liabilities under this Agreement with a reputable insurance company. The policy of the insurer shall adequately (minimum of £1,000,000 (GBP one million)) cover each and every claim against damage, liabilities, claims and costs arising from any incident, or series of incidences arising from a common cause in any twelve (12) month period.
- 10.2 At the request of SBP, the CB shall provide SBP with a certified copy of the insurance policy referred to in clause 10.1, as well as all amendments to the policy and evidence of all policy renewals within ten (10) working days of such request being received by the CB.
- 10.3 The CB shall give SBP not less than forty (40) days notice in writing of either its intention to cancel the policy referred to in clause 10.1 or of the intent of the insurer to effectively cancel such policy.
- 10.4 The CB shall indemnify SBP and their employees and non-executive directors against any claims, demands, actions, costs, expenses (including but not limited to full legal costs and disbursements on a attorney client basis), losses and damages arising as a result of or in relation to any liability arising by reason of any negligence, breach of this Agreement or breach of any Legal Requirements (save to the extent arising directly by reason of any negligence or breach of this Agreement by SBP or SBP or any third party).
- 10.5 Save always as set out in clause 10.6, SBP's liability to the CB in contract, negligence, breach of statutory duty or otherwise for any loss of profits, loss or good will or any other indirect, incidental or consequential damages, shall be limited to the amount of fees SBP has received from the CB in the year immediately preceding the event which gave rise to such liability.
- 10.6 Nothing in this Agreement shall be construed as excluding either Party's liability for any personal injury or death caused by its negligence or intent (or for any fraudulent misrepresentation).

11 SUSPENSION OF APPROVAL

- 11.1 If SBP decides that the CB has failed to comply with this Agreement, SBP Framework Requirements and/or is subject to any Non-Conformity, SBP may suspend the rights of CB under this Agreement. The suspension process will follow the relevant SBP suspension requirements as are applicable from time to time details of which can be obtained at:

www.sustainablebiomasspartnership.org

- 11.2 The notice of suspension shall be in writing and shall identify the Non-Conformity to be addressed by the CB. It shall also state that SBP will terminate this Agreement forthwith pursuant to clause 13 if conformity is not demonstrated within the time frame specified in such notice.
- 11.3 The notice of suspension shall be served in accordance with clause 20 and shall state what the effect of such suspension shall be.

12 REDUCTION OF THE SCOPE OF APPROVAL

- 12.1 If the SBP decides that the CB has failed to comply with this Agreement, the SBP Framework Requirements, and/or with the requirements of any Non-Conformity, SBP may reduce CB's Scope of Approval. Furthermore and for the avoidance of doubt, the hereinafter Scope of Approval may be reduced by mutual agreement of the Parties. The scope reduction process will follow the relevant SBP reduction requirements as are applicable from time to time details of which can be obtained at:

www.sustainablebiomasspartnership.org

- 12.2 The notice of reduction shall be served in accordance with clause 20 and shall state what the effect of such reduction of Scope of Approval shall be.

13 TERM AND TERMINATION

- 13.1 This Agreement shall commence on the Effective Date and shall continue until terminated in accordance with this clause 13 or clause 17 (Force Majeure).

- 13.2 Either Party may terminate this Agreement by giving to the other Party not less than six (6) months written notice.
- 13.3 The Parties may terminate this Agreement on such date as they shall agree in writing.
- 13.4 This Agreement shall be terminated immediately:
- 13.4.1 upon service of notice in writing from SBP to the Applicant in the event of a failure by the Applicant to comply with a provision of this Agreement, including failure to comply with relevant SBP Framework Requirements. The Termination process will follow the relevant SBP termination procedures as are applicable from time to time details of which can be obtained at:

www.sustainablebiomasspartnership.org

For the avoidance of doubt, the obligations contained in such termination procedures shall survive Termination;

- 13.4.2 in the event that either Party enters into a composition or arrangement with its creditors, has a receiver or administrator or administrative receiver appointed, or passes any resolution for winding-up or bankruptcy or a court order is made to this effect;
- 13.4.3 if control of the Applicant is acquired by any person or Group of connected persons which as of the date of this Agreement did not have control of the Applicant; “control” in this context means ownership of, or the ability to exercise the voting rights relating to a majority of the issued shares (as current from time to time) of the Applicant, or the ability to set corporate strategy and policy, howsoever obtained, or the board of directors of the Applicant, or the control of the management of the Applicant, and “person” shall mean any person, including without limitation, any individual, any partnership, or any incorporated or unincorporated company, as the case may be;

- 13.4.4 upon service of notice in writing from SBP to the Applicant in the event the Applicant or any member of its Group does or omits to do anything which is or may amount to any fraud, dishonesty, impropriety or criminal act or any other act which might bring this Agreement and the relationship of the Parties into disrepute and in the reasonable opinion of SBP the continuation of this Agreement is inappropriate; and
- 13.4.5 if the CB has awarded Certification otherwise than in conformity with the Certification Requirements, or awarded Certification outside its Scope of Approval.

13.5 Consequences of Termination

- 13.5.1 The Termination of this Agreement, however caused, shall not affect the rights, obligations or liabilities of the Parties that have accrued prior to the date of Termination.
- 13.5.2 The Approval of the CB hereunder and the Trade Mark Licence Agreement between the Parties shall be determined at the date of Termination of this Agreement.
- 13.5.3 At the time of Termination, suspension or reduction of Approval, the validity of any Certificate issued by a CB at or after the service of any notice of Termination, suspension or reduction of Approval, subject to and shall be dealt with the provisions set out from time to time at:

www.sustainablebiomasspartnership.org

14 APPEALS AND COMPLAINTS

- 14.1 For the purposes of this Clause, an Appeal must be made by the Applicant and be directly related to an Approval Decision, as described in relevant SBP Framework Requirements. All other matters will be regarded as Complaints.
- 14.2 The Applicant has the right to Appeal against an Approval Decision. Any Appeal shall follow relevant SBP appeal requirements as are applicable from time to time (details of which can be obtained at:

www.sustainablebiomasspartnership.org

- 14.3 Approval Decisions shall remain in force during the appeals process.
- 14.4 The Applicant has the right to complain regarding SBP's Approval Decisions or other activities of SBP. Any Complaint shall follow relevant SBP complaint requirements as are applicable from time to time details of which can be obtained at:

www.sustainablebiomasspartnership.org

- 14.5 SBP shall publish and maintain details of its procedures for dealing with Appeals or Complaints as are applicable from time to time details of which can be obtained at:

www.sustainablebiomasspartnership.org

15 TRANSPARENCY AND DATA USAGE

- 15.1 The CB authorises SBP to publish the company name, full address and contact persons/details of the CB.
- 15.2 The CB authorises SBP to publish a public summary of Assessment Reports in accordance with SBP requirements.

16 DATA PROTECTION

- 16.1 For the purposes of this clause 16, the terms '**Data Controller**' and '**Personal Data**' will have the meanings given to them in the Data Protection Legislation and in particular the DPA.
- 16.2 Each Party acknowledges and agrees that for the purposes of the DPA, each will act as an independent Data Controller of any Personal Data processed, acquired or exchanged in the course of this Agreement (unless otherwise agreed in writing). Therefore each Party is responsible for its own compliance with the Data Protection Legislation.

16.3 The Applicant agrees to the processing and use by SBP and its agents of Personal Data submitted by the Applicant under this Agreement for the purposes and provision of certification and post certification requirements. This may include the transfer of such data out of the European Economic Area. Personal Data may be used by SBP and its agents to update records, public notices, compile reports and take investigatory and enforcement action.

16.4 The Applicant will:

16.4.1 maintain all registrations and notifications under the Data Protection Legislation;

16.4.2 maintain adequate privacy statements and obtain any requisite data subject consent prior to sharing any information with SBP for the purposes of this Agreement;

16.4.3 respond to any Data Protection Notice received by it independently; and

16.4.4 maintain appropriate technical and organisational measures to ensure the security of any Personal Data received or acquired from SBP.

16.5 The Applicant will use all reasonable efforts to assist SBP to comply with all obligations imposed by the Data Protection Legislation including responding to any Data Protection Notice received by SBP from time to time or any other privacy incident.

17 FORCE MAJEURE

17.1 For the purpose of this Clause “force majeure” means any circumstances not reasonably anticipated as of the date of this Agreement and not within the reasonable control of the Party in question including, without prejudice to the generality of the foregoing, strikes, lockouts, shortages of labour or raw materials, civil commotion, riot, invasion, war, threat of or preparation for war, fire, explosion, storm, flood, earthquake, subsidence, epidemic or other natural physical disaster.

- 17.2 If, and to the extent that, either Party is prevented or delayed by force majeure (as defined in clause 17.1) from performing any of its obligations under this Agreement, and promptly so notifies the other Party specifying the matters constituting force majeure, together with such evidence in verification thereof as it can reasonably give, and specifying the period for which it is estimated that the prevention or delay will continue, then the Party so affected shall be relieved of liability to the other for failure to perform or for delay in performing such obligations (as the case may be).
- 17.3 The Party affected by the force majeure nevertheless shall use its best endeavours to resume full performance of its obligations under this Agreement. If the force majeure continues for a period of two months or more following notification, the Party not affected by the force majeure may terminate this Agreement by giving not less than thirty (30) days prior notice to the other Party.
- 17.4 The notice of Termination shall be of no effect if the Party affected by the force majeure resumes full performance of its obligations before the expiry of the notice period as referenced in clause 17.3.

18 CONDUCT AND SEVERANCE

- 18.1 Nothing in this Agreement shall require or permit either Party to do anything that would be contrary to or result in a breach of any Legal Requirement.
- 18.2 Should a provision of this Agreement be invalid or become invalid or should this Agreement contain an omission, then the legal effect of the other provisions shall not thereby be affected. Any invalid provision shall be deemed to be replaced by a valid provision achieving materially the same purpose and effect.

19 WAIVER

- 19.1 Failure or delay by either Party to enforce any of its rights under this Agreement or the giving of additional time for performance or other indulgence is not a waiver of such right unless the waiving Party acknowledges the waiver in writing, nor will any single or partial exercise of any remedy or right preclude any further exercise of the same or the exercise of any other right.

- 19.2 No waiver of any particular breach of the provisions of this Agreement will operate as a waiver of any repetition of such breach.

20 NOTICES AND SERVICES OF PROCEEDINGS

- 20.1 Any letters or notices regarding Approval shall be directed to SBP at 3rd Floor, 41 Moorgate, London, EC2R 6PP.

- 20.2 Any notice or other formal document to be served by either Party to the other shall be delivered by hand, by post, by electronic mail or by facsimile transmission.

- 20.2.1 In the case of SBP to:

The address specified in clause 20.1.

- 20.2.2 In the case of the Applicant to:

The address specified above.

21 ANNOUNCEMENTS

- 21.1 The CB shall not make (or permit a third party to make) any announcement concerning the granting, suspension, Termination or reinstatement of any Approval without the written approval of SBP such approval not to be unreasonably withheld or delayed.

22 DISPUTE RESOLUTION

- 22.1 The Parties shall, in good faith, try to amicably settle through direct negotiations any Dispute, controversy or claim arising out of or relating to the present Agreement, including breach and Termination of the Agreement.

23 LAW AND JURISDICTION

- 23.1 This Agreement is construed in accordance with and shall be governed and interpreted by the laws of England and Wales.

24 MISCELLANEOUS

24.1 Save to the extent expressly stated to the contrary, the Termination of this Agreement for any reason shall be without prejudice to:

24.1.1 any right to damages or other remedy or to rights or obligations which shall have become due prior to the date of Termination; and

24.1.2 the continuing rights and obligations of the Parties under any provision of this Agreement which is expressly or by implication intended to come into force or continue in force after Termination.

24.2 This Agreement constitutes the entire understanding between the Parties relating to the subject matter hereof, unless any representation or warranty made about this Agreement was made fraudulently and, save as may be expressly referred to or referenced herein, supersedes all prior agreements, representations, writings, negotiations or understandings with respect hereto.

This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which shall together constitute one and the same instrument.

Executed as a deed by SUSTAINABLE BIOMASS PARTNERSHIP acting by Peter Wilson,
a director, in the presence of:

Fiona E Ferguson

[SIGNATURE OF WITNESS]

[NAME OF WITNESS [IN BLOCK CAPITALS]] FIONA E FERGUSON

[ADDRESS OF WITNESS] 27/1 NORTH WEST CIRCUS PLACE

[OCCUPATION OF WITNESS] Retired School teacher EHS 6TP

[SIGNATURE OF DIRECTOR]

Director

Peter Wilson

Executed as a deed by NEPCon OU acting by Peter Feilberg, a director, in the presence of:

Heret Knjazeva

[SIGNATURE OF WITNESS]

[NAME OF WITNESS [IN BLOCK CAPITALS]] HERET KNJAZEVA

[ADDRESS OF WITNESS] MOLLESTRÆDE 5 HILLERØD DENMARK

[OCCUPATION OF WITNESS] STUDENT

[SIGNATURE OF DIRECTOR]

Director

Peter Feilberg

SCHEDULE 1 LICENSED MATERIALS

SBP's Trade Marks

1. SBP Sustainable Biomass Partnership logo:



2. SBP
3. SBP-certified
4. SBP-certified biomass
5. SBP-compliant
6. SBP-compliant biomass
7. SBP-controlled
8. SBP-controlled biomass

SCHEDULE 2 SBP FEE SCHEDULE

- 1 The Applicant shall pay to SBP the fees, costs and expenses at such time and in such amounts as set out in this Schedule, being the most recent fee schedule for SBP Approval as published on the SBP website (<http://www.sustainablebiomasspartnership.org>) from time to time. SBP reserves the right to vary the Fee Schedule at its discretion. The Applicant will receive formal notification six (6) months in advance of any changes to the published SBP Fee Schedule.
- 2 All sums payable under this Schedule, unless otherwise stated, are exclusive of Value Added Tax ("VAT") and any other duties or taxes. Any VAT or other duties or taxes payable in respect of such sums shall be payable by the Applicant in addition to such sums.
- 3 SBP shall issue to the Applicant an invoice for any sums payable and the Applicant shall pay such invoices within fourteen (14) days from the date of issue. SBP reserves the right to apply an interest charge of one percent (1%) per month on any outstanding fees.
- 4 All payments by the Applicant shall be made in pounds sterling (GBP) currency and shall be effected by electronic transfer to the bank account in paragraph 5 below or as may be specified from time to time by SBP in writing in advance. Each Party shall bear its own costs of the money transfer.
- 5 SBP nominated bank account:

Bank: Barclays Bank PLC

Sort code: 20-00-00

Account number: 33783073
- 6 The Applicant shall notify SBP of its VAT registration status and number promptly and in any event within seven (7) days of the Effective Date and the Parties undertake to inform each other promptly in writing of any changes to their VAT status during the Term of this Agreement.

SCHEDULE 3 TRADE MARK LICENCE AGREEMENT

See Trade Mark Licence Agreement (separate document).